

STATE OF MICHIGAN
COURT OF APPEALS

J. A. M. CORPORATION,

Plaintiff-Appellant,

v

AARO DISPOSAL, INC. and ROBERT RUNCO,

Defendants-Appellees.

UNPUBLISHED

January 16, 1998

No. 193594

Oakland Circuit Court

LC No. 95-507670-CK

Before: MacKenzie, P.J., and Neff and Markey, JJ.

PER CURIAM.

Plaintiff appeals as of right an order granting summary disposition to defendants on the ground that plaintiff's action was barred by res judicata. We affirm.

I

In 1990, Hunt Club Investment Group (Hunt Club) owned certain commercial property in Auburn Hills and leased the property to a company called JAM, Inc., which then subleased the property to defendant AARO Disposal, Inc. (AARO). Pursuant to the sublease agreement, defendant would occupy the commercial property and pay rent to JAM, Inc. in the amount of \$1,260,000 over ten years, payable in monthly installments of \$10,000 for the first five years, followed by payments of \$11,000 for the next five years. AARO was also obligated to pay for the maintenance, utilities, insurance, and taxes for the premises. Under the sublease, defendant Robert Runco guaranteed the payment of rent and any other sums payable by AARO. The sublease further contained a purchase option, but that option could not be exercised until 1996.

In May 1995, AARO ceased making rent payments on the property, and discontinued paying for maintenance, utilities, and taxes. JAM, Inc. instituted summary proceedings in district court to recover possession of the premises for nonpayment of rent. At a bench trial in the district court, defendant established that "JAM, Inc." was neither a Michigan corporation nor authorized to do business in Michigan at the time the sublease was entered into. Accordingly, AARO argued that the sublease agreement was null and void. Defendants stated that the tenancy could best be described as

month-to-month, with rent monies owing to Hunt Club, but only if Hunt Club chose to file a claim against AARO.

Mario Iacobelli, who owns both Hunt Club and JAM, Inc., was apparently surprised by these revelations. Iacobelli testified that the company had been paying the requisite fees and had been filing the required reports with the Michigan Department of Commerce annually. Plaintiff's counsel argued that it could prove plaintiff was a Michigan corporation if given the opportunity:

Jam, Inc. is a Michigan corporation; and if given the opportunity, we could bring in the certified documents that will prove that.

* * *

[T]he plaintiff in this action, is a Michigan corporation, was a Michigan corporation, and if the Court wants proof of that from the Corporations and Security division, then we will provide that to the Court.

Subsequently, defense counsel offered to stipulate to have the case determined according to whether plaintiff could produce certified records showing that it was a corporation authorized to do business in Michigan at the time the sublease was executed:

If [plaintiff] can produce certified records from the Corporations and Securities Bureau that Jam, [sic] Inc. existed on April – in April of 1990, I – I'll stipulate to the issuance of a writ of restitution. But if he can't, then – then a judgment is entered that that sublease is null in void [sic].

Before plaintiff's counsel could respond, the trial judge indicated his approval of the proposed stipulation by stating "All right . . . that's where we're going to leave it." At that point, plaintiff's counsel acknowledged, or at least recited, the terms of the proposed stipulation as follows:

The offer is if I can produce records that Jam, Inc. [sic] . . . was a . . . duly organized corporation on the date of the lease, then he will stipulate to the entry of the writ of restitution. . . the second is if [we] cannot, then action . . . is dismissed."

The court then adjourned trial, apparently to allow plaintiff an opportunity to obtain the requested documentation.

After the adjournment, plaintiff's counsel discovered that plaintiff was incorporated in Delaware, not in Michigan, under the name of "J.A.M. Corporation," not "JAM, Inc." and that, despite the fact that Iacobelli had been filing the required Michigan corporation fees and reports annually, "J.A.M. Corporation" was not registered to do business in Michigan. Accordingly, plaintiff's counsel immediately sought to correct this, and on August 14, 1995, the Michigan Department of Commerce issued a certificate of authority purporting to grant "Del-Jam Corporation, the qualifying name of J.A.M. Corporation" authority to conduct business in Michigan" retroactive to May 19, 1986.

When the proceedings resumed in the district court, AARO moved for entry of judgment for dismissal, arguing that the retroactive certificate of correction obtained by plaintiff did not satisfy the terms of the stipulation requiring proof that plaintiff was qualified to do business in Michigan at the time the sublease was signed in 1990. Plaintiff's counsel disagreed, and argued that it had made a good faith error in using the name "JAM, Inc." in the sublease, rather than "J.A.M. Corporation," and that the error should not invalidate the lease. Counsel also argued that plaintiff had never agreed to the proposed stipulation.

The district court judge ruled that the 1990 sublease agreement was null and void, and entered a judgment and order dismissing with prejudice the summary proceeding to recover possession for nonpayment of rent. The order purports to be a consent judgment, and indicates that the dismissal is based on the stipulation of the parties.

Sixteen days after the entry of the district court's order of dismissal, plaintiff filed a claim of appeal in Oakland Circuit Court.¹ That same day, plaintiff filed the instant, separate action against defendants in the Oakland Circuit Court, seeking damages for reformation of contract, breach of contract, breach of implied contract, guaranty and unjust enrichment. Defendants filed a motion for summary disposition, claiming that the issues raised in plaintiff's new complaint were barred by res judicata and collateral estoppel, and that J.A.M. Corporation had no standing to sue for unjust enrichment because it did not own the subject property. The Circuit Court agreed that the district court decision was res judicata, and granted summary disposition. Plaintiff now appeals, arguing that the circuit court erred in granting summary disposition as to counts IV [breach of implied contract] and VI [unjust enrichment].²

II

A party may bring a motion for summary disposition on the ground that a claim is barred by a prior judgment. We review de novo a trial court's ruling on a motion for summary disposition pursuant to MCR 2.116(C)(7) to determine whether a party is entitled to judgment as a matter of law. *Huron Tool Engineering Co v Precision Consulting Services, Inc*, 209 Mich App 365, 376-377; 532 NW2d 541 (1995).

Res judicata bars a subsequent action between the same parties when the facts or evidence essential to the action are identical to those essential to the prior action. *Ozark v Kais*, 184 Mich App 302, 307; 457 NW2d 145 (1990). The purpose of res judicata is to avoid relitigation of claims; the doctrine recognizes that endless litigation leads to vexation, confusion, and chaos for litigants and inefficient use of judicial resources. *Abb Paint Finishing, Inc v Nat'l Union Fire Ins*, 223 Mich App 559, 562; 567 NW2d 456 (1997).

For res judicata to apply: (1) the prior action must have been decided on its merits; (2) the matter contested in the second case was or could have been resolved in the first; and (3) both actions involved the same parties or their privies. *Dart v Dart*, 224 Mich App 146; 156; 568 NW2d 353 (1997). Michigan has adopted a broad rule of res judicata which bars not only claims actually litigated in the prior actions, but every claim arising out of the same transaction that the parties, exercising

reasonable diligence, could have raised but did not. *Gose v Monroe Auto Equipment Co*, 409 Mich 147, 160-163; 294 NW2d 165 (1980); *Sprague v Buhagiar*, 213 Mich App 310, 312; 539 NW2d 587 (1995). Thus, the effect of the prior judgment extends to the litigation of all issues relevant to the same claim between the same parties, whether or not raised at trial; it is sufficient that the parties might have had the matter disposed of on its merits. *Sprague, supra* at 313.

III

In the present case, there is no question that the prior district court action to recover possession for nonpayment of rent was decided on the merits. Further, although the two actions were filed under different names (“JAM, Inc.” in the first action; “J.A.M. Corporation” in the second), the actual identities are substantially identical. See *In re Humphrey Estate*, 141 Mich App 412, 434; 367 NW2d 873 (1985). We thus turn our attention to the question of whether the issues regarding plaintiff’s breach of implied contract and unjust enrichment claims (the second action) could have been resolved in the previous district court action.

Plaintiff’s previous action in the district court was a summary proceeding for possession of property brought under MCL 600.5701 *et seq.*; MSA 27A.5701 *et seq.* A party to summary proceedings may join money claims and equitable claims in an action for summary possession. MCL 600.5739; MSA 27A.5739; MCR 4.201(G); *Ames v Maxson*, 157 Mich App 75, 79; 403 NW2d 501 (1987).

A

Plaintiff argues that it could not have brought its claim of unjust enrichment in the previous action because district courts do not have jurisdiction over such equitable claims. We disagree.

In a summary proceeding for the possession of property, district courts have jurisdiction to hear and determine “an equitable claim. . . involving a right, interest, obligation, or title in land.” MCL 600.8302(3); MSA 27A.8302(3). Plaintiff’s claims in the present cases clearly “involve” an interest in land: plaintiff claimed an interest in the property that defendants possessed, and asserted that defendants had an obligation to pay for their use of the property. Because plaintiff’s equitable claim for unjust enrichment comes within this limited equity jurisdiction of the district court, plaintiff could have joined its equitable claim for unjust enrichment with its previous action for summary possession.

B

Plaintiff also argues that its claims for breach of implied contract and unjust enrichment could not have been brought in the district court action because the amount of damages claimed exceeded \$10,000. Again, we disagree.

Regarding plaintiff’s breach of contract claim, we note that district courts in Michigan have subject-matter jurisdiction over all civil matters when the amount in controversy does not exceed \$10,000. MCL 600.8301(1); MSA 27A.8301(1). However, if a district court determines that it lacks jurisdiction because the damages are in excess of its jurisdictional limits, the action for damages can be

removed to circuit court, while the action for possession remains in the district court. MCR 4.201(G)(2)(b).

As for plaintiff's action for unjust enrichment, we note that the specific grant of equitable jurisdiction exists in the district court regardless of the amount of damages at issue. MCL 600.8302(3); MSA 27A.8302(3); *Bruwer v Oaks*, 218 Mich App 392, 395; 554 NW2d 345 (1996). We thus conclude that the amount in controversy provided no bar to plaintiff's raising its breach of implied contract and unjust enrichment claims in the district court.

IV

Plaintiff further argues that because its claims of breach of implied contract and unjust enrichment are not dependent on the validity of the sublease and the parties' obligations thereunder, res judicata is inappropriate. While this argument may appear convincing at first blush, on closer inspection we find that plaintiff's focus is too narrow.

AARO's occupation of the commercial property at issue while failing to pay monthly installments of rent to defendant is at the core of both the summary proceeding in the district court and the subsequent circuit court case. Indeed, both cases would necessarily involve a determination of the parties' rights and obligations regarding the property. The purpose of res judicata is to prevent this type of repetitive litigation between the same parties.

V

The applicable statutes and court rules permit a party to join cross-claims and counterclaims arising out of the summary proceedings. MCL 600.5739; MSA 27A.5739; MCR 4.201(G). While such joinder is not mandatory, where a claim or right of action is pursued to final judgment, that judgment may be asserted by either party as res judicata in a subsequent action arising out of the same transaction. To hold otherwise would be tantamount to permitting an aggrieved party, confronted with a judgment for the defendant, to file successive actions based on different theories or claims and seeking different remedies until it receives a favorable verdict. This would wholly undermine the doctrine of res judicata.

In the present case, plaintiff did not bring its claims for unjust enrichment and breach of implied contract in the prior district court proceedings, although it could have. Under this state's broad rule of res judicata, the judgment in that prior action bars plaintiff's subsequent action. Summary disposition pursuant to MCR 2.116(C)(7) was proper.

Affirmed.

/s/ Barbara B. MacKenzie

/s/ Janet T. Neff

/s/ Jane E. Markey

¹ Plaintiff argued that the district court lacked authority to declare the sublease agreement null and void, and that neither the “misnomer” regarding plaintiff’s corporate name nor plaintiff’s failure to be qualified as a Michigan corporation at the time the sublease was executed rendered the sublease agreement null and void. In response, defendant filed two separate motions to dismiss plaintiff’s appeal in circuit court for lack of jurisdiction – the first motion contending that the circuit court lacked jurisdiction because the order appealed from is a consent judgment, and the second motion contending that the circuit court lacked jurisdiction because plaintiff’s claim of appeal was not filed within the 10-day time limit of MCR 4.201(N)(2).

The circuit court granted defendant’s second motion to dismiss, agreeing with defendant that plaintiff’s claim of appeal was untimely filed and rejecting plaintiff’s arguments that the ten-day time limit of MCR 4.201(N)(2) does not apply or that the circuit court should treat the claim of appeal as a delayed application for leave to appeal.

Plaintiff appealed the circuit court’s order to this Court. While expressing no opinion regarding the merits of plaintiff’s proposed issues for appeal, this Court reversed the circuit court’s denial of plaintiff’s application for leave to appeal and remanded the matter to the circuit court for reconsideration of plaintiff’s application. *JAM, Inc. v AARO Disposal, Inc.*, unpublished order of the Court of Appeals, entered 7/30/97 (Docket No. 201038). Defendants have filed in the Supreme Court an application for leave to appeal from this Court’s order.

² Plaintiff does not challenge the circuit court’s dismissal of the remaining counts in its complaint.